

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SERGIY GUMENYUK,
Plaintiff,

vs.

MARLOW NAVIGATION COMPANY,
LTD, JANS HS SCHIFFAHRTS
GMBH and HS SCHIFFAHRTS GMBH
& CO KG.,
Defendants.

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CAUSE NO. 4:20:cv-00285

DEFENDANT’S NOTICE OF REMOVAL

Defendant Marlow Navigation Company, Ltd. (“Defendant” or “Marlow”), pursuant to 28 U.S.C. §§ 1331 and 1446 and without waiving any of its defenses, gives notice of removal of this case from the 165th District Court of Harris County, Texas, and in support thereof, would show the Court as follows:

**I.
INTRODUCTION**

1. Plaintiff Sergiy Gumenyuk filed this action for alleged personal injuries under the Jones Act and general maritime law against Marlow and Defendants Jans HS Schiffahrts GMBH and HS Schiffahrts GMBH & Co KG in the 165th District Court of Harris County, Texas, on October 22, 2019, and the case was assigned cause number 2019-77321.

2. This Court occupies the district and division in which Plaintiff’s Original Petition was filed. *See* 28 U.S.C. § 1446(a).

3. This Notice of Removal is timely filed pursuant to 9 U.S.C. § 205.

**II.
BASIS FOR REMOVAL**

4. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question). Federal law sanctions the removal of a lawsuit whose subject matter relates to an arbitration agreement falling under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (“the Convention”). 9 U.S.C. § 205; the Convention, June 7, 1959, 330 U.N.T.S. 3. Plaintiff has agreed in his Seafarer's Employment Agreement to arbitrate disputes arising out of his employment aboard the vessel.

5. All defendants who have been properly joined and served join in or consent to the removal of this case to federal court.

**III.
JURY DEMAND**

6. Plaintiff demanded a jury in the state court action.

**IV.
DOCUMENTS FILED WITH THIS NOTICE**

7. Pursuant to Southern District of Texas Local Rule 81, Defendant files the following documents with the court:

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| Exhibit A | An index of matters being filed with this notice (pursuant to Local Rule 81.5); |
| Exhibit B | Plaintiff's Original Petition in the state court case (pursuant to Local Rule 81.2); |
| Exhibit C | The docket sheet in the state court case (pursuant to Local Rule 81.4); |
| Exhibit D | A list of all counsel of record, including addresses, telephone numbers, and parties represented in the state court case (pursuant to Local Rule 81.6); and |
| Exhibit E | A copy of the Notice of Removal to Federal Court to be filed with the state court. |

Defendant does not file any orders signed by the state judge (pursuant to Local Rule 81.3) because the judge has not yet signed any orders. Defendant does not file executed process in the state court case (pursuant to Local Rule 81.1) because Plaintiff has filed none.

**V.
CONCLUSION**

Defendant Marlow Navigation Company, Ltd. removes this case from the 165th District Court, Harris County, Texas, to this Court.

Respectfully submitted,

HOLMAN FENWICK WILLAN USA LLP

/s/ **Michael J. Wray**

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**ATTORNEY-IN-CHARGE FOR DEFENDANT
MARLOW NAVIGATION COMPANY, LTD.**

OF COUNSEL:

Holman Fenwick Willan USA LLP

Jeanie Tate Goodwin

TBA 24046949, SDTX 592456

CERTIFICATE OF SERVICE

A true and correct copy of *Defendant's Notice of Removal* was served ECF on 24th day of January 2020:

Charles F. Herd, Jr.

HERD LAW FIRM, PLLC

19500 Tomball Parkway, Suite 250

Houston, Texas 77070

/s/ **Jeanie Goodwin**

Jeanie Tate Goodwin